

## **REMARKS**

### **Allowed and Allowable Claims**

Claims 27-29 and 34-43 have been allowed. Claim 45 has been objected to, but has been indicated as allowable if rewritten in independent form. To that end, dependent claim 45 has been rewritten in independent form and allowance of the same is respectfully requested.

The applicant notes that the language added to independent base claim 44 in response to the previous Office Action reciting that “said elongate body having a substantially solid configuration and comprising a unitary, single-piece structure for disposition within the disc space” has not been included in rewritten independent claim 45 since such language was asserted to be disclosed in U.S. Patent No. 4,325,550 to Reuther. (See page 5 of the Office Action). Additionally, such language was not included in the statement of reasons for allowance set forth on pages 4 and 5 of the Office Action. Accordingly, removal of such language is submitted to not affect the patentability of rewritten independent claim 45, and therefore would not raise new issues that require additional searching and/or consideration.

### **Independent Claims 44 and 50**

Independent claims 44 and 50 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,325,550 to Reuther. The reasoning regarding the rejection of independent claims 44 and 50 as being anticipated by the Reuther reference is set forth on page 2 of the Office Action. The dental implant disclosed in the Reuther reference includes a body 1 defining a number of support ribs 4 and three cutting flutes 5 which define cutting edges 6, with the cutting flutes 5 angularly offset relative to one another by 120°. (See Figure 3). On page 6 of the Office Action, it is stated that “with respect to the Reuther reference: Reuther does indeed disclose ‘a pair of oppositely disposed arcuate side walls’, albeit the side walls are not substantially diametrically opposite one another.” (Emphasis added). In response to this indication, the Applicant has amended each of the independent claims 44 and 50 to recite that the arcuate side walls are “arranged substantially diametrically opposite one another”.

The applicant notes that the language added to each of the independent claims 44 and 50 in response to the previous Office Action reciting that “said elongate body having a substantially solid configuration and comprising a unitary, single-piece structure for disposition within the disc space” has been deleted from independent claims 44 and 50 since such language was asserted to be disclosed by the Reuther reference. (See page 5 of the Office Action). Additionally, such language was not included in the statement of reasons for allowance set forth on pages 4 and 5 of the Office Action. Accordingly, removal of such language is submitted to not affect the patentability of independent claims 44 and 50, and therefore would not raise new issues that require additional searching and/or consideration.

For at least the reasons set forth above, the applicant submits that independent claims 44 and 50 are now in condition for allowance.

**Independent Claim 19 and Dependent Claims 20-25 and Independent Claim 31**

Independent claim 19, dependent claims 20-25 and independent claim 31 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,435,723 to O’Brien in view of U.S. Patent No. 5,282,861 to Kaplan.

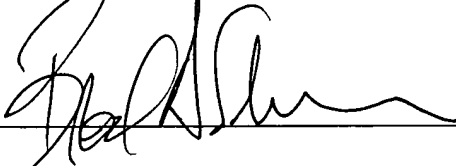
Independent claim 19 has been cancelled without prejudice for possible submission in a continuing application. Dependent claims 20 and 25 and independent claim 31 have been rewritten to depend from allowed independent claim 27. Accordingly, claims 20-25 and 31 depend either directly or indirectly from allowed independent claim 27, and are submitted to be patentable for at least the reasons supporting the patentability of independent base claim 27. Allowance of dependent claims 20-25 and 31 is therefore requested.

## CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the Applicant's application is now in condition for allowance with pending claims 19-25, 27-29, 31, 34-45 and 50.

Reconsideration of the subject application is respectfully requested. Timely action towards a Notice of Allowability is hereby solicited. The Examiner is encouraged to contact the undersigned by telephone to resolve any outstanding matters concerning the subject application.

Respectfully submitted,

By: 

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